

## REMARKS

Claims 1-27 remain pending in the instant application. Claims 28-30 are cancelled without prejudice. Entry of this amendment and consideration of the pending claims are respectfully requested.

### *Provisional Election*

Applicants hereby provisionally elect Species G2 directed toward Figure 8 with traverse and reserve the right to petition this restriction requirement. Applicants note that Figures 9B, 10, and 11 illustrate systems, which may incorporate any of the embodiments disclosed in the application. Therefore, Applicants submit that Species G2 is also directed toward Figures 9B, 10, and 11, as well as, Figure 8. Furthermore, the concept of integrating multiple surface emitting lasers (“SELs”) into a single monolithic structure, illustrated by Figure 9A, is also not mutually exclusive of the embodiment illustrated in Figure 8.

Accordingly, claims 1-4, 7-17, and 19-27, are readable on Species G2 and therefore are provisionally elected with traverse.

### *Linking Claims*

“There are a number of situations which arise in which an application has claims to two or more properly divisible inventions, so that a requirement to restrict the application to one would be proper, but presented in the same case are one or more claims (generally called “linking” claims) inseparable therefrom and thus linking together the inventions otherwise divisible.” M.P.E.P. § 809.03

“Where linking claims exist, a letter including a restriction requirement only ... will be effected, **specifying which claims are considered to be linking.**” M.P.E.P. § 809.03.

Applicants respectfully submit that independent claims 1 and 25 are linking claims. While the Examiner’s initial restriction requirement was supposed to identify

these claims as such, per M.P.E.P. § 809.03, Applicants hereby request the Examiner to acknowledge these claims as linking claims.

Furthermore, claim 22 is not mutually exclusive from any of the embodiments illustrated in Figures 2A, 3, 4, 5, 6, 7, and 8. Since all of these SELs are all disclosed as being capable of monolithic integration, they all are susceptible to integration into arrays where the absorber and gain regions are shared by cavities of multiple SELs within the array. Accordingly, claim 22 is also a linking claim.

#### *Retention of Claims to Non-elected Invention*

“Where the requirement for restriction in an application is predicated upon the nonallowability of generic or other type of linking claims, application is entitled to retain in the case claims to the nonelected invention or inventions.” M.P.E.P. § 809.04. “If a linking claim is allowed, the examiner ... must examine the claims to the nonelected inventions that are linked to the elected invention by such allowed linking claim.” M.P.E.P. § 809.04.

Accordingly, Applicants retain claim 5, 6, and 18 pending allowance of a linking claim.

#### *Restriction Requirement*

The Examiner has required a restriction of the claims between a Species A1, A2, B1, B2, ..., G1, G2, H, and I) illustrated by FIGs. 2A, 3, 4, 5, 6, 7, 8, 12, and 13.

Applicants note that there is “a serious burden on the examiner if restriction is required.” M.P.E.P. § 803. “If the search and examination of an entire application can be made without serious burden, the examiner **must** examine it on the merits, even though it includes claims to independent or distinct inventions.” M.P.E.P. § 803 (emphasis added).

Favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (206) 292-8600 if the Examiner believes that an interview might be useful for any reason.

### CHARGE DEPOSIT ACCOUNT

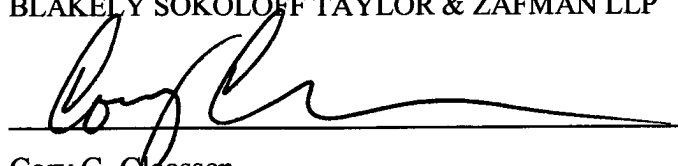
Please charge our Deposit Account No. 02-2666 for any additional fee(s) that may be due in this matter, and please credit the same deposit account for any overpayment.

Respectfully submitted,

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

Date:

April 25, 2006

A handwritten signature in black ink, appearing to read 'Cory G. Claassen', is written over a horizontal line.

Cory G. Claassen

Reg. No. 50,296

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